

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 18688 of 2006

Dated: 25-09-2006

Between:

Gopal Goud

..... PETITIONER

AND

The Commissioner of Prohibition
And Excise, A.P., Hyderabad and another.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

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WRIT PETITION NO: 18688 of 2006

ORDER:

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This writ petition is filed questioning the order passed by the second respondent dated 09-11-2005 under which the licence granted in favour of the petitioner was suspended pending enquiry, under Section 31(1) of A.P. Excise Act, 1968 on the allegation that the petitioner had indulged in adulteration of toddy with Diazepam in contravention of Rule 5 of the A.P. Excise (Tapping of Trees and Toddy Shops Special Conditions of Licences) Rules, 1969.

A perusal of the impugned order shows that the licenced premises was inspected on 07-03-2005 by the officials of the respondents. Though in the spot test the toddy available in the shop was found to be free from Chloral Hydrate, the samples of toddy drawn from the petitioner's shop, on examination by the Government Chemical examiner, were found to be fermented toddy adulterated with Diazepam. On the basis of the chemical examiner's report, dated 06-09-2005, the impugned order dated 09-11-2005 was passed suspending the licence of the petitioner pending enquiry. The said order is challenged in this writ petition on various grounds.

Heard the learned counsel for both the parties.

The learned Government Pleader for Prohibition and Excise appearing for the respondents under instructions states that the enquiry initiated has not yet been completed.

As noted above the petitioner's licenced premises was inspected long back in the month of March, 2005 and the impugned order of

suspension came to be passed about eight months thereafter on 09-11-2005, on the ground of alleged adulteration of toddy.

The law is well-settled that the suspension of licence pending enquiry cannot be made as a matter of course and that the licensing authority is bound to exercise the discretion reasonably and bona fide considering the facts and circumstances of the case. In all cases where it is possible to give an opportunity to the licensee, the licensing authority should not resort to the drastic step of suspension as an invariable rule.

In the case on hand, even assuming that as revealed in the chemical analysis, the toddy available in the petitioner's shop on 07-03-2005 was adulterated, in the absence of any material to show that sale of such adulterated toddy is being continued, suspension of licence after a period of eight months is unwarranted.

In the circumstances, while leaving it open to the second respondent to proceed with the enquiry and to pass appropriate orders in accordance with law, the impugned order dated 09-11-2005 to the extent of suspension of licence pending enquiry is set aside. The petitioner is granted liberty to submit his explanation to the show cause notice, if not already submitted within a period of two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

G. ROHINI, J

Dated: 25-09-2006

Note: Issue C.C. in three days.

B/O

KLP

